

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

PAUL GITTINGER

TDCJ-CID #792075

V.

CAPTAIN WELLS

§
§
§
§
§

C.A. NO. C-05-024

ORDER DENYING MOTION TO COMPEL


This is a civil rights action brought by a state prisoner pursuant to 42 U.S.C. § 1983.

Pending is plaintiff's motion to compel. (D.E. 17). Plaintiff seeks the production of documents and responses to interrogatories.

Defendant has filed an answer in which he asserts various defenses of immunity. (D.E. 13, at 3). Given that these immunity issues have not been resolved by the Court, plaintiff's discovery requests are premature. See, e.g., Wicks v. Mississippi State Employment Servs., 41 F.3d 991, 994-995 (5th Cir. 1995).¹

Accordingly, plaintiff's motion to compel, (D.E. 17), is DENIED.

ORDERED this 30th day of August 2005.


BRIAN L. OWSLEY
UNITED STATES MAGISTRATE JUDGE

¹ In his answer, defendant stated that he "requests dismissal of Plaintiff's claims under 42 U.S.C. § 1983 to the extent that they are brought against him in his official capacity." (D.E. 13, at 2). Defendant, however, has not filed any motion seeking dismissal.